

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BRENDA TAYLOR, individually, and as
executor of the Estate of Che Andre Taylor;
JOYCE TAYLOR, individually; CHE ANDRE
TAYLOR, JR., individually; and SARAH
SETTLES on behalf of her minor child, CMT,

Plaintiffs,

vs.

CITY OF SEATTLE; MICHAEL SPAULDING
and "JANE DOE" SPAULDING, and their
marital community composed thereof; SCOTT
MILLER and "JANE DOE" MILLER, and their
marital community composed thereof;
TIMOTHY BARNES and "JANE DOE"
BARNES, and their marital community
composed thereof; and AUDI ACUESTA and
"JANE DOE" ACUESTA, and their marital
community composed thereof,

Defendants.

No. 2:18-CV-00262-TSZ

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private
information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and

1 petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this
2 agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses
3 to discovery, the protection it affords from public disclosure and use extends only to the limited information
4 or items that are entitled to confidential treatment under the applicable legal principles, and it does not
5 presumptively entitle parties to file confidential information under seal.

6 2. “CONFIDENTIAL” MATERIAL

7 “Confidential” material shall include the following documents and tangible things produced or
8 otherwise exchanged: (1) police personnel files (excluding personal financial, medical, psychological or
9 family related materials, which will be redacted separately); (2) unsustained police internal investigations
10 and disciplinary files; (3) unsustained complaints of police misconduct; (4) medical, psychological, and
11 financial records of Plaintiffs or non-parties; (5) non-public tactical policies and procedures and training
12 protocols; and (6) records that could implicate the privacy rights of the plaintiff or third parties, including,
13 but not limited to, personal identifying information (“PII”) such as date(s) of birth, social security number(s),
14 personal home address(es), phone number(s), and e-mails; driver’s license or state identification number(s);
15 personal financial information; passport information; immigration status; criminal history and/or criminal
16 record number(s); and other unspecified PII.

17 3. SCOPE

18 The protections conferred by this agreement cover not only confidential material (as defined above),
19 but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts,
20 summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations
21 by parties or their counsel that might reveal confidential material. However, the protections conferred by this
22 agreement do not cover information that is in the public domain or becomes part of the public domain
23 through trial or otherwise.

1 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2 4.1 Basic Principles. A receiving party may use confidential material that is disclosed or
3 produced by another party or by a non-party in connection with this case only for prosecuting, defending, or
4 attempting to settle this litigation. Confidential material may be disclosed only to the categories of persons
5 and under the conditions described in this agreement. Confidential material must be stored and maintained
6 by a receiving party at a location and in a secure manner that ensures that access is limited to the persons
7 authorized under this agreement.

8 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the
9 court or permitted in writing by the designating party, a receiving party may disclose any confidential
10 material only to:

11 (a) the receiving party’s counsel of record in this action, as well as employees of counsel to whom
12 it is reasonably necessary to disclose the information for this litigation;

13 (b) the officers, directors, and employees (including in house counsel) of the receiving party to
14 whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular
15 document or material produced is for Attorney’s Eyes Only and is so designated;

16 (c) experts and consultants to whom disclosure is reasonably necessary for this litigation and
17 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (d) the court, court personnel, and court reporters and their staff;

19 (e) copy or imaging services retained by counsel to assist in the duplication of confidential
20 material, provided that counsel for the party retaining the copy or imaging service instructs the service
21 not to disclose any confidential material to third parties and to immediately return all originals and copies
22 of any confidential material;
23

1 (f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary
2 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
3 agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony
4 or exhibits to depositions that reveal confidential material must be separately bound by the court reporter
5 and may not be disclosed to anyone except as permitted under this agreement;

6 (g) the author or recipient of a document containing the information or a custodian or other person
7 who otherwise possessed or knew the information.

8 4.3 Filing Confidential Material. Before filing confidential material or discussing or
9 referencing such material in court filings, the filing party shall confer with the designating party to determine
10 whether the designating party will remove the confidential designation, whether the document can be
11 redacted, or whether a motion to seal or stipulation and proposed order is warranted. Local Civil Rule 5(g)
12 sets forth the procedures that must be followed and the standards that will be applied when a party seeks
13 permission from the court to file material under seal.

14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-
16 party that designates information or items for protection under this agreement must take care to limit any
17 such designation to specific material that qualifies under the appropriate standards. The designating party
18 must designate for protection only those parts of material, documents, items, or oral or written
19 communications that qualify, so that other portions of the material, documents, items, or communications
20 for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

21 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be
22 clearly unjustified or that have been made for an improper purpose (*e.g.*, to unnecessarily encumber or delay
23

1 the case development process or to impose unnecessary expenses and burdens on other parties) expose the
2 designating party to sanctions.

3 If it comes to a designating party's attention that information or items that it designated for protection
4 do not qualify for protection, the designating party must promptly notify all other parties that it is
5 withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see,
7 *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure or discovery
8 material that qualifies for protection under this agreement must be clearly so designated before or when the
9 material is disclosed or produced.

10 (a) Information in documentary form: (*e.g.*, paper or electronic documents and deposition
11 exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating
12 party must affix the word "CONFIDENTIAL" to each page that contains confidential material. If only a
13 portion or portions of the material on a page qualifies for protection, the producing party also must clearly
14 identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins or identification in
15 a privilege log).

16 (b) Testimony given in deposition or in other pretrial proceedings: the parties and any
17 participating non-parties must identify on the record, during the deposition, or other pretrial proceeding,
18 all protected testimony, without prejudice to their right to so designate other testimony after reviewing
19 the transcript. Any party or non-party may, within fifteen days after receiving the transcript of the
20 deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as
21 confidential. If a party or non-party desire to protect confidential information at trial, the issue should be
22 addressed during the pre-trial conference.
23

1 (c) Other tangible items: the producing party must affix in a prominent place on the exterior of
2 the container or containers in which the information or item is stored the word "CONFIDENTIAL." If
3 only a portion or portions of the information or item warrant protection, the producing party, to the extent
4 practicable, shall identify the protected portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate
6 qualified information or items does not, standing alone, waive the designating party's right to secure
7 protection under this agreement for such material. Upon timely correction of a designation, the receiving
8 party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of
9 this agreement.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
12 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality designation is
13 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant
14 disruption or delay of the litigation, a party does not waive its right to challenge a confidentiality designation
15 by electing not to mount a challenge promptly after the original designation is disclosed.

16 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute regarding
17 confidential designations without court involvement. Any motion regarding confidential designations or for
18 a protective order must include a certification, in the motion or in a declaration or affidavit, that the movant
19 has engaged in a good faith meet and confer conference with other affected parties in an effort to resolve the
20 dispute without court action. The certification must list the date, manner, and participants to the conference.
21 A good faith effort to confer requires a face-to-face meeting or a telephone conference.

22 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention,
23 the designating party may file and serve a motion to retain confidentiality under Local Civil Rule 7 (and in

1 compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion in any such motion shall be
2 on the designating party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or
3 impose unnecessary expenses and burdens on other parties) may expose the challenging party to sanctions.
4 All parties shall continue to maintain the material in question as confidential until the court rules on the
5 challenge.

6 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
7 LITIGATION

8 If a party is served with a subpoena or a court order issued in other litigation that compels disclosure
9 of any information or items designated in this action as “CONFIDENTIAL,” that party must:

- 10 (a) promptly notify the designating party in writing and include a copy of the subpoena or court order;
11 (b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation
12 that some or all of the material covered by the subpoena or order is subject to this agreement. Such
13 notification shall include a copy of this agreement; and
14 (c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party
15 whose confidential material may be affected.

16 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

17 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material
18 to any person or in any circumstance not authorized under this agreement, the receiving party must
19 immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts
20 to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom
21 unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or
22 persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

23 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
MATERIAL

1 When a producing party gives notice to receiving parties that certain inadvertently produced material
2 is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth
3 in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
4 may be established in an e-discovery order or agreement that provides for production without prior privilege
5 review. The parties shall confer on an appropriate non-waiver order under Fed. R. Evid. 502.

6 10. NON TERMINATION AND RETURN OF DOCUMENTS

7 Within 60 days after the termination of this action, including all appeals, each receiving party
8 must return all confidential material to the producing party, including all copies, extracts and summaries
9 thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

10 Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents
11 filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition and trial exhibits,
12 expert reports, attorney work product, and consultant and expert work product, even if such materials
13 contain confidential material.

14 The confidentiality obligations imposed by this agreement shall remain in effect until a designating
15 party agrees otherwise in writing or a court orders otherwise.

16 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

17
18 DATED: December 27, 2018

/s/ Ghazal Sharifi

/s/ Jeff Wolf

/s/ Susan Park

Attorneys for Defendants

21 DATED: December 21, 2018

/s/ James Bible

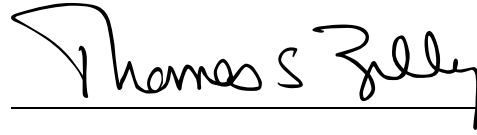
/s/ Shakespear N. Feyissa

/s/ Jesse Valdez

Attorneys for Plaintiff

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 DATED this 28th day of December, 2018

3 
4

5 Thomas S. Zilly
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on [date] in the case of *Taylor v. City of Seattle, et al.*, Case No. 2:18-cv-00262-TSZ. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____